

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ANTHONY SHRONE PERSON,
Petitioner,

v.

MELISSA ANDREWJESKI,
Respondent.

No. 23-cv-5434-BJR

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DENYING PETITION**

I. INTRODUCTION AND BACKGROUND

This matter comes before the Court on the Report and Recommendation (R&R) of U.S. Magistrate Judge Theresa L. Fricke, recommending denial of the 28 U.S.C. § 2254 petition of Anthony Person (“Petitioner”), denial of Petitioner’s request for an evidentiary hearing, and denial of a Certificate of Appealability. Petitioner is currently incarcerated at Coyote Ridge Corrections Center in Connell, Washington, having been convicted of 18 counts of sex offenses against his daughters, O.P. and M.P., and against A.A., the daughter of his former spouse. The Court, having reviewed the Petition, the Response of Respondent Melissa Andrewjeski, the R&R, and Petitioner’s Objections thereto, finds and rules as follows.

1 The 26-page R&R contains a thorough review of the facts and procedural history of this
2 case, which the Court will not repeat here. *See* R&R at 2-8. In sum, in 2020 Petitioner was charged
3 with multiple counts of sexual assault, child molestation, and incest involving his minor children.
4 Petitioner chose to represent himself at trial and was appointed standby counsel, and a jury
5 ultimately found Petitioner guilty on all counts. Petitioner filed an appeal, and his conviction was
6 affirmed. He also filed in state court two personal restraint petitions, both of which were denied,
7 which raised the claims made herein. Respondent acknowledges that Petitioner has exhausted his
8 state court remedies as to the claims raised herein.
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10 II. DISCUSSION

11 A. Standard of Review Under 28 U.S.C. § 2254

12 As the R&R notes, a habeas corpus petition filed under 28 U.S.C. § 2254 “shall not be
13 granted with respect to any claim that was adjudicated on the merits in State court proceedings
14 unless the adjudication of the claim— (1) resulted in a decision that was contrary to, or involved
15 an unreasonable application of, clearly established Federal law, as determined by the Supreme
16 Court of the United States; or (2) resulted in a decision that was based on an unreasonable
17 determination of the facts in light of the evidence presented in the State court proceeding.” 28
18 U.S.C. § 2254(d). Federal courts review a habeas petition under a “highly deferential standard,”
19 and the state court decision must be “more than incorrect or erroneous”; it must be an “objectively
20 unreasonable” application of “clearly established law.” *Lockyer v. Andrade*, 538 U.S. 63, 75
21 (2003). In other words, “a state prisoner must show that the state court’s ruling on the claim being
22 presented was so lacking in justification that there was an error well understood and comprehended
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1 in existing law beyond any possibility for fair-minded disagreement.” *Harrington v. Richter*, 562
2 U.S. 86, 103 (2011).

3 In reviewing the R&R, this Court “shall make a *de novo* determination of those portions of
4 the report or specified proposed findings or recommendations to which objection is made.” 28
5 U.S.C. § 636(b)(1)(C). However, a district court is free to adopt those portions of a magistrate
6 judge’s report to which no specific objection is made, provided they are not clearly erroneous.
7 *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
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9 **B. Petitioner’s Claims**

10 The R&R analyzes each of Petitioner’s claims, which the Petition presents as “(1) ‘Subject
11 Matter’ and ‘Personal Jurisdiction’ U.S. Constitutional infringement—Due Process, Equal
12 Protection, Right to Remain Silent; (2) Ineffective Assistance of Counsel and Prosecutor
13 Misconduct; (3) Fraud, Invalid Judgment/ Sentence, Misconduct of the State’s Witnesses, Law
14 Enforcement Expungement of a favorable evidence toward defendant; and (4) Violation of Police
15 Investigation/Petitioner resided outside the State of Washington during charging information —
16 Violation of ‘Due Process/Equal Protection.’” R&R at 2, citing Dkt. 19, Petition for Habeas
17 Corpus.
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19 The R&R addresses each of the grounds Petitioner raised separately, finding as to each that
20 Petitioner had failed to meet his significant burden of demonstrating the state courts’ rejection of
21 his claims was based on either an “unreasonable application of clearly established Federal law,”
22 or on “an unreasonable determination of the facts in light of the evidence.” 28 U.S.C. § 2254. As
23 to Ground (1), Petitioner’s challenge to jurisdiction of the State of Washington over his criminal
24 proceedings, the R&R concluded that “[t]his claim is frivolous. Mr. Person was charged with
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1 criminal offences that all occurred within Washington State.” R&R at 11 (citing Judgment and
2 Sentence, Warrant of Commitment, Mason County Case No. 20-1-00147-23 (August 17, 2021)).
3 The Petitioner’s Objections fail to address, let alone negate, this reasonable conclusion, which the
4 Court therefore adopts.

5 The R&R also concludes that Ground (2)—Ineffective Assistance of Counsel—was
6 frivolous, as Petitioner “waived his right to counsel and decided to represent himself at trial.” R&R
7 at 11, 12 (citing *Faretta v. California*, 422 U.S. 806, 835, n. 46 (1975) (defendant who waives the
8 right to counsel cannot then claim ineffective assistance of counsel)). Again, the Objections do not
9 provide the Court with any specific basis for rejecting this conclusion, which the Court therefore
10 adopts.
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12 The R&R also rejects claims of prosecutorial misconduct, which underlie Grounds (2),
13 (3), and (4). The R&R thoroughly, individually, and accurately analyzes the purported *Brady*
14 violation; the claimed violation of Petitioner’s right to remain silent; and Petitioner’s claim that he
15 was convicted despite an insufficiency of evidence. R&R at 13-24. The R&R concludes as to each
16 claim that the state court had “reasonably applied clearly established federal law.” R&R at 13.
17 Petitioner’s Objections offer little more than generalized averments that the R&R is “erroneous.”
18 Petitioner attempts to relitigate factual and legal issues that were already raised in state criminal
19 proceedings, and rejected by the jury, and also rejected on both direct appeal and by state courts
20 in Petitioner’s personal restraint petition proceedings. He does not set forth any specific legal or
21 factual material that establishes that the state courts’ rejections of his federal claims were
22 unreasonable, offering little more than repeated claims—made multiple times in previous
23 proceedings—that he is innocent and that witnesses were lying, without any specific information
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1 or evidence to support these claims. Accordingly, the Court agrees with and adopts the R&R's
2 conclusions as to these claims.


3 Finally, the Court agrees with the R&R that Petitioner is not entitled to an evidentiary
4 hearing. Whether to hold an evidentiary hearing is committed to the Court's discretion, and a
5 hearing is not required if a petitioner's allegations would not entitle him to relief under §2254(d).
6 *Schriro v. Landrigan*, 550 U.S. 465, 473 (2007). Petitioner's purported disputes of fact are little
7 more than re-hashed requests for credibility determinations that have already been resolved by a
8 jury, and it is not the province of this Court to second-guess that finder of fact.

10 III. CONCLUSION

11 For the foregoing reasons, the Court, having reviewed the Report and Recommendation,
12 the petition for writ of federal habeas corpus relief and the remaining record, hereby finds and
13 ORDERS:

- 14 1. the Report and Recommendation is approved and adopted;
- 15 2. petitioner's federal habeas corpus petition is DISMISSED with prejudice;
- 16 3. the Court DENIES a certificate of appealability; and
- 17 4. the Clerk is directed to send copies of this Order to petitioner, to Magistrate Judge
18 Theresa L. Fricke and to any other party that has appeared in this action.

19 SO ORDERED. Dated: March 11, 2024.

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24 Barbara Jacobs Rothstein
25 U.S. District Court Judge
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